

(b) As to any evidence or argument pertaining to Donnelly and Takats' claimed present financial hardship, the Motion is GRANTED; however, the Court will allow evidence of their financial hardship in 2011;

(c) As to evidence regarding the purported oral release, the Motion is DENIED;

(d) As to evidence and argument seeking to establish that the Termination of Lease operated to extinguish the Guaranty, the Court finds that the Guaranty is ambiguous and the Motion is DENIED; and

(e) As to parol evidence concerning the terms of the Guaranty, the Motion is DENIED.

2. With regard to Defendants' Motions In Limine:

(a) As to any argument that a release from a guaranty must be in writing, the Motion is GRANTED, but such evidence may be relevant to the course of dealings between the parties;

(b) As to any evidence of damages for future rents arising after BV Retail no longer owned the leased premises, the Motion is DENIED; and

(c) As to expert opinion testimony from Courtney Efird on the amount of damages allegedly suffered by BV Retail, the ruling is deferred until trial.

On or before September 16, 2013, counsel shall submit:


1. An agreed upon verdict sheet, or if counsel cannot agree, each side shall submit a proposed verdict sheet; and

2. Any additional or revised jury instructions. Counsel shall identify which instructions pertain to each issue in the verdict sheet.

The Clerk is directed to send copies of this Order to counsel for the parties.

**SO ORDERED.**

Signed: September 11, 2013

  
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David S. Cayer  
United States Magistrate Judge

